

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NATHANIAL JAMES HASHER,

Plaintiff,

v.

CITY OF ROCHESTER, a Minnesota
municipal entity; OFFICER E. FRITZ,
Badge No. 187, personally,
individually, and in his capacity as a
Rochester Police Officer; OFFICER
FAUDSKAR, personally, individually,
and in his capacity as a Rochester
Police; Officers JANE DOE and
RICHARD ROE, unknown and
unnamed Rochester Police officers,
personally, individually, and in their
capacities as Rochester Police
Officers; and CHIEF OF POLICE
ROGER L PETERSON, personally,
individually, and in his official
capacity,

Defendants.

NO. 2:23-CV-0196-TOR

ORDER DISMISSING COMPLAINT

1 BEFORE THE COURT is Plaintiff's Complaint. ECF No. 1. The Court has
2 reviewed the record and files herein and is fully informed. For the reasons
3 discussed below, all claims asserted in Plaintiff's Complaint (ECF No. 1), are
4 **DISMISSED with prejudice.**

5 **BACKGROUND**

6 Plaintiff Nathaniel James Hasher, proceeding *pro se* and *in forma pauperis*,
7 filed this suit on July 11, 2023, against the City of Rochester, Minnesota and
8 officers of their police department. Plaintiff's Complaint is a copy of a Complaint
9 he appears to have filed in January 2022 in the District of Minnesota. Along with
10 the Complaint is the docket sheet from the district of Minnesota that shows
11 Defendants received a summary judgment ruling in their favor and costs were
12 assessed against Plaintiff. Additionally, there is an order prohibiting Plaintiff from
13 filing documents in that case without authorization of a judicial officer of that
14 District. ECF No. 1 at 13.

15 **DISCUSSION**

16 Under the Prison Litigation Reform Act of 1995, the Court is required to
17 screen a complaint filed by a party seeking to proceed *in forma pauperis*. 28
18 U.S.C. § 1915(e); *see also Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001)
19 (noting that "the provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to
20 prisoners"). Section 1915(e)(2) provides:

1 Notwithstanding any filing fee, or any portion thereof, that may have
2 been paid, the court shall dismiss the case at any time if the court
3 determines that (A) the allegation of poverty is untrue; or (B) the
4 action or appeal (i) is frivolous or malicious; (ii) fails to state a claim
5 on which relief may be granted; or (iii) seeks monetary relief against a
6 defendant who is immune from such relief.

7 28 U.S.C. § 1915(e)(2).

8 “The standard for determining whether a plaintiff has failed to state a claim
9 upon which relief can be granted under § 1915(e)(2)(B)(ii) is the same as the
10 Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a claim.”
11 *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012).

12 Here, this Court does not have jurisdiction over the named Parties. Further,
13 the case appears to have already been litigated and Plaintiff lost his case.
14 Accordingly, the Court finds it does not have jurisdiction and Plaintiff’s case is
15 subject to *res judicata* (a cause of action may not be relitigated once it has been
16 decided on the merits).

17 **OPPORTUNITY TO AMEND**

18 Unless it is absolutely clear that amendment would be futile, a *pro se* litigant
19 must be given the opportunity to amend his complaint to correct any deficiencies.
20 *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987), *superseded by statute*, 28
U.S.C. § 1915(e)(2), *as recognized in Aktar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir.
2012). The Court finds that it is absolutely clear that no amendment will cure the

1 deficiencies in Plaintiff's Complaint. Therefore, the Court dismisses Plaintiff's
2 Complaint with prejudice.

3 **REVOCATION OF IN FORMA PAUPERIS STATUS**

4 Pursuant to 28 U.S.C. § 1915(a)(3), "[a]n appeal may not be taken *in forma*
5 *pauperis* if the trial court certifies in writing that it is not taken in good faith." The
6 good faith standard is an objective one, and good faith is demonstrated when an
7 individual "seeks appellate review of any issue not frivolous." *See Coppedge v.*
8 *United States*, 369 U.S. 438, 445 (1962). For purposes of 28 U.S.C. § 1915, an
9 appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*,
10 490 U.S. 319, 325 (1989).

11 The Court finds that any appeal of this Order would not be taken in good
12 faith and would lack any arguable basis in law or fact. Accordingly, the Court
13 hereby revokes Plaintiff's *in forma pauperis* status.

14 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 15 1. Plaintiff's Complaint (ECF No. 1) is **DISMISSED with prejudice**.
- 16 2. Plaintiff's *in forma pauperis* status is hereby **REVOKED**.
- 17 3. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of
18 this Order would not be taken in good faith and would lack any arguable
19 basis in law or fact.

1 The District Court Executive is directed to enter this Order and Judgment
2 accordingly, forward copies to Plaintiff, and **CLOSE** the file.

3 DATED July 12, 2023.



Thomas O. Rice
THOMAS O. RICE
United States District Judge